

Powder.
 per.—No Ammonia; No Alum.
 40 Years the Standard.

FIFTH DAY.

ional Evidence
duced.

SASSASIN SHOT?

Two Men in
From the Scene
Murder.

day of moderate sen-
of the Heath case, in
ers of the bar engaged
ment gentle surprises.
introduced a number
of gun shot ex-
to throw light upon
raining the character
was fired at different

ional evidence yet in-
of Mr. Carter, a new
ed to seeing two men
the direction of the
eam at the height of
minutes after the fir-

story, they were
ard Belmont avenue,
that passes through
and commonly called
residential to hear-
away from the scene.

and down a street
it turned west a short
on turned north, and
the northern limit of
a section from the Mc-
and it followed up
the responsibility.

in court has been
a matter of fact ruling
it tended to lessen
the gentler sex, also
has no sentimental
the purposes of courts.

to repeat upon re-
the people of California
to be made in a bar-
some difference
language in the
"Go on," said the
want to listen to it)

reporter is the when
of this kind, for they
through his eyes
work and loss of
ing and he has a
is observed to speak
a few words.

Reporters to remark
was distressingly
G. GEORGE.

of court yesterday the
of Thomas Seward
to testified that the
got lost in returning
on the night of the

ocks northeast of the
McWhirter's house
in minutes to 4 a.m.
to the saloon. Saw
McWhirter street ten
or twelve feet from
the house. Heard no
noise. Heard no noise.

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that he (witness) would soon be able to
buy out the Monarch saloon.

On the redirect he stated that in the
evidence in the former trial he had not
said that Heath, Polley, and John Doe
had a revolver. He had called attention
to the error which he had made over
his evidence of a few days ago.

Edward H. Parker, formerly of Fresno,
now of Oakland, had been a saloon
keeper here and had acquainted
N. H. Polley with McWhirter. On the
7th or 8th of March, 1893, he met
Heath near College Park. Heath was
coming from Los Gatos. After a few
remarks Heath asked: "Who killed
McWhirter?" Witness said, "I don't
know; do you?" Heath said he did
not.

On cross-examination he stated that
Heath said he had just come from the
Keeley cure. Had a general conver-
sation with him about the merits of it.
Talked with him for fifteen minutes;
noticed nothing particular and found
no impression on his mind until after he
heard of his arrest a few days later.

In answer to the court the witness
said he had heard many other people
ask the same question substantially.
N. H. Polley testified that he was
a shorthand reporter and as such re-
ported the evidence at the former trial.
He stated that there were \$55,000 words
in the case. With regard to the error
committed by Seward in his testimony he
referred to the original notes and found
nothing in them for "one of them" had
been transcribed as "revolver," there
being a similarity in the characters.

On cross-examination he stated that
he had examined the record and was
satisfied that he himself had made the
error in the transcript of the case. He
was friendly with the McWhirters.

AFTERNOON SESSION.

Professor Thomas Price was recalled
by the prosecution to testify to some in-
teresting experiments made under his
direction, with regard to pistol shots
and resulting powder stains and powder
burning. Mr. McFarlane and W. P.
Thompson assisted him. The experi-
ments were made on a piece of board
fourteen inches in size, with pieces of
an old cotton pillow case fastened over
it, at the Belmont target range. Four-
teen shots were fired from a .41 caliber
Colts revolver and principally within
the edges. The following is the sub-
stance of his statement of the result of
these experiments.

In the first the muzzle was placed
against the cloth. The shot ruptured
the cloth and set it on fire and would
have burned it up had it not been ex-
tinguished.

The second shot was at a distance of
three inches, the cloth ignited and was
ruptured; some grains of powder took
fire and burned in spots.

The third was at a distance of six
inches; the cloth ignited and was rup-
tured.

In the fourth, at a distance of nine
inches the cloth ignited, and there were
powder marks over an area of about six
inches.

The fifth was at a distance of one foot.
There were powder marks and the cloth
ignited.

The sixth was at a distance of two
feet; the cloth was slightly burned, and
the grains of powder ignited on the
cloth, making a number of very small
holes.

The seventh was at a distance of three
feet; the cloth was slightly burnt and
grains of powder penetrated the cloth.

The eighth was at a distance of five
feet; the cloth around the margin of the
bullet hole was slightly singed and was
power marked.

The ninth shot was at a distance of
eight feet. There was no burning or
singing; found nine grains of unburned
powder in the cloth.

The tenth was at a distance of nine
feet; there were three or four grains of
powder in the cloth and the cloth around
the bullet hole was blackened.

The eleventh experiment was on cloth
slightly moistened and the pistol held in
contact with the cloth; in this instance
the cloth was burned and powder
marked.

The twelfth was at a distance of six
inches under like conditions, with like
results, the cloth being more heavily
powder marked.

All these experiments were made on a
separate, single piece of cotton cloth
about a foot in distance. They were offered
in evidence, and filed as exhibits in the
case, with the understanding that the
defense would be permitted to file sim-
ilar exhibits if desired.

On cross-examination he stated that
no damage had occurred to the cloth in
any of the experiments. He did not try the
experiment of pressing the pistol firmly
against the cloth, nor did they use
double thicknesses of cloth. Mr. Thomp-
son had not been able to secure material
similar to the material used in the trial.

Professor Price gave it as his opinion
that the part of the spit in McWhirter's
night shirt was caused by the pistol
ball, but argued from the fact that there
was a clean cut hole that the shot was
first fired at a distance of six inches.
He compared the hole in the night shirt
with other exhibits to illustrate the point.

In making these experiments the cloth
had not been drawn tight over the board,
but had been allowed to hang loose, and
if the pistol were pressed tight against
the body there would not be any pow-
der marks on the cloth as the unspent
powder, etc., would be carried into the
wound. He then took a number of cloth
clothes, including McWhirter's night shirt,
and with a new bullet, and fired at a
distance of six inches, and the result was
the same as the other exhibits.

On redirect examination he stated that
he was admitted to practice as a
physician, but was not in actual prac-
tice. He is professor of anatomy and
physiology at the Medical College and
other institutions and had been con-
sulting expert of the police department
for over twenty-five years. He stated
that had the wound been made by a pis-
tol in close contact it would have been
ruptured and carried powder.

On cross-examination he stated that
he had not engaged in the practice of
medicine, but had studied it theoretic-
ally. He still gave it as his opinion
that the normal temperature of the hu-
man body ranged from 90 to 100 de-
grees Fahrenheit, and stated that the
average was something over 98 degrees.

He stated that he accepted the theory
of the craft that 98.6 degrees is normal.
He stated that there was no ignition;
he made no experiment at a range of
four feet. He had seen wounds on an-
imals where the arm was said to have
been pressed against the person and the
wound was not ruptured. This was
caused by the air preceding the bullet
and the increase in volume of the gas
created, which often amounted to 1000
volumes. Wounds of this nature are
fagged and ragged.

C. M. Carter was a new witness pre-
sented by the prosecution, and from his
examination and testimony, the jury
admitted him to the witness stand. He
admitted that he had been in the saloon
at the time of the shooting, and that he
had seen the McWhirter family.

On cross-examination he stated that
he was not in the saloon at the time of
the shooting, and that he had not seen
the McWhirter family.

On redirect examination he stated that
he was in the saloon at the time of the
shooting, and that he had seen the Mc-
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On cross-examination he stated that
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the shooting, and that he had not seen
the McWhirter family.

taking part in the murder will, accord-
ing to the theory of the prosecution, be
increased to four, five, or even more.

On the night of the murder Carter re-
sided on Clark street in Hartsell's ad-
dition, which is north and east of the Mc-
Whirter residence and about a half mile
distant from the saloon, and nearly four-
fourths of a mile by streets. He was
aroused by pistol shots, two of which
he heard distinctly. He sat up in bed
and within four or five minutes heard a
buggy coming up street and going north.
It was going very fast. He and his wife
looked out of the west window, which
was about forty feet from the center of
Clark street, and saw a black top buggy
go by, with two horses, and two men
in it.

On cross-examination he stated that
he judged this to be about 3 o'clock.
There were two windows in the room
with wire screens; on the west side and
the north. The house was in the mid-
dle of the block, and on the east side of
the street. The house sets back about
15 feet from the street. The buggy was
driven by two dark horses, and the oc-
cupants being the lighter colored.
The man on the right-hand side had a
light face or straw hat, with a black
band 2 to 2 1/2 inches wide. The one on
the left side, he thought, had on a small
black flat hat, with a narrow brim.
The man on the right side had on light
gray clothes; the other wore dark
clothes. The horses were going very
fast; think one of them was galloping;
looked like they were going to break
down. The man on the north window
could see them for half a block.

To the court he stated that he heard
three men talking. The man on the
right was the larger. It was a clear
night; no street lights, nor any lights on
the time the buggy was in the house; could not fix
the time exactly.

In answer to Mr. Tupper he stated
that he told this story to some men
working with him on a building on the
next day—they were J. W. Cow, J.
M. Shunklin, and others. He did not
know if they believed him or not. He
also told E. W. Smith and Mark Wal-
low and Stillwell, and to his father-in-
law's family. He estimated that the
buggy was going at the rate of twelve
miles an hour.

Mr. Gaetano was next called and
interrogated. The defense asked that
the examination be deferred until they
had time to secure a check interpreter,
and a subpoena was issued for Nick P.
Justy and John Berbera and the exami-
nation continued.

On the witness stand he testified that he
was on terms of intimate friendship with
McWhirter and was well acquainted with
Heath. After the murder and about September 10th he took Heath
out to his place and had him there
about two weeks. That night while in
the house, he heard the sound of a
gun, and the next morning McWhirter's
death and witness was speaking of what
a fight it must have been. Heath
made the remark that he stood up like
a man. He did not say that he made a
"gallant" fight.

On cross-examination he stated that
there was a misapprehension about who
made use of the term "gallant." Heath said,
"He stood up like a man." Witness
knew Heath was suspected and invited
him there in order to find out all he
knew about it; was there about two
weeks and talked a great deal about the
murder. He quit drinking while there.
Heath always spoke of McWhirter
as a friend; never abused him. As
they crossed the Polakay railroad going
out they were talking of the matter,
and Heath wrung his hands and said,
"Mac was my friend."

In answer to the court as to whether
this remark that McWhirter stood up
like a man was a part of the witness'
theory in the case, stated that he was
putting his idea of the fight in his own
way, telling what he thought was the
fact. Heath was the remark.
Witness could not determine whether
Heath meant by it to agree with him or
that it was an independent thought. It
left a suspicion in the witness' mind.

The court then adjourned to 9.30
o'clock this morning.

Mrs. Kate Morrison of East Third
street and Omar avenue, Los Angeles,
inquires about her 13 year old son
who ran away from home ten days ago.
He went with a tramp named "Leav-
enworth Red."

THE TWELFTH DAY.

Professor Price Makes Fur-
ther Experiments.

MRS. GAETANO ON THE STAND

The Prosecution Offsetting the Sai-
de Theory by Further
Pistol Tests.

From Sunday's Daily.

But little progress was made in the
trial of the Heath case yesterday, owing
to the fact that Mrs. Gaetano's examina-
tion had to be conducted by an inter-
preter and the lady manifested a dis-
position to demand the reasons for the
questions asked her rather than to give
pertinent answers.

Besides every one connected with the
case was so worn out and weary that
much of the milk of human kindness
had turned into "blue John" and there
was nervousness in the air. The only
one who seemed content with the situa-
tion was Reporter Gineheart, who was
having a comparatively easy time of it,
and his eyes were full of the dregs of
sleep.

Professor Price furnished the court
with another batch of evidence based on
perforated beef, which an ungarreted
reporter referred to as "cheek." Colonel
A. J. Reddy made an affidavit, and
equipped as the law directs, for the
purpose of dissecting that beef and ex-
posing the interior thereof to public gaze,
but after one look at the beef the court
forbade the rization of histories and
saw the witness.

The morning session was extended to
1 o'clock, at which time the court ad-
journed to 2 o'clock tomorrow, in order
to dispose of some routine business of
the court that had been held in abeyance.

MONDAY SESSION.

Mrs. Antonia de Gaetano, wife of
Gabriel de Gaetano, through an in-
terpreter, stated that she resided on N.
Clark street at the time of the murder.
She heard the shooting while in bed and
got up, expecting there was a fire. She
went back to the alley in her night
dress and heard some one crying.

As she reached the alley she saw a
man coming towards her from the north,
who passed down the alley within six or
seven feet of her. She afterward went
to the jail and saw a man there who
looked like the man she saw that night,
but she could not swear positively that
he was the man. She then pointed out
the defendant to the court and said she
knew him.

On the cross examination the two in-
terpreters, Frank Marino and A. G.
Leverone, had their hands full in try-
ing to get answers that matched the ques-
tions. It seems that she comes from a
part of Italy where the inhabitants have
a dialect of their own, and speak in
locality and differing from the written
language of that country. This rendered
interpreting difficult and far from sat-
isfactory.

The defense called in Frank Bonillo,
alias "Soda," as an exhibit on the part
of the defense, and the witness identi-
fied him as the proprietor of "Casa de
Frank" and stated that he was an Italian
and that she had talked with him in
front of his house. He wanted to know
if she had seen any one in the alley on
the night of the murder, and the witness
said she did not mean to tell him, but
told him "no." She denied that she
told him that she was in bed at the
time and was in no hurry to get up, and
that when she got up there were a great
many people and that she went back
to bed. She said she did not know who
told her when the conversation was
she had talked of the matter in her
own house with her husband, and her
brother who had now gone to New York.
Never told any one outside of the family
until the trial.

Marion Childs came after her to go
before the grand jury. She stated that
when she went to the jail to see if she
could identify Heath, two "policemen"
went with her, and she identified As-
sistant District Attorney Valier and
Sheriff as the men who went with her.
Her brother and another man was there.
One told her anything. She saw Heath
sitting there smoking and another man
sitting with him.

She had never seen him before the
night of the murder, and at the trial in
court. He looked like the man who
passed her in the alley, but she could
not swear positively that he was the
man. She did not speak to him when
she was in jail. When she came out
she told Mr. Valier that he looked like
the man, but that she did not know who
he was. She had not talked with Lee
Blasingame about the matter. She saw
Mr. Valier once at the house, and once
at his office. Saw Childers only once.
She had received no money from any
one connected with the prosecution.
The sheriff had paid her \$15 for her
expenses, and she was subpoenaed in the
suit, at San Francisco. Did not know of her husband
receiving any money. At this point the
witness was withdrawn, in order to per-
mit Professor Price to be examined
touching some experiments.

PISTOL SHOTS.

Professor Thomas Price then presented
the results of further experiments made
at the instance of the prosecution, upon
the use of the pistol shot under the
conditions of the case. He had been provided with a duplicate
of the nightshirt and undershirt worn
by McWhirter on the night of the murder,
the clothes being placed in natural
order and drawn tight upon the piece of
beef. The pistol was fired at a distance
of six inches, and the result was the
same as the other exhibits.

These shots were lettered instead of
numbered in order to distinguish them
from the exhibits filed the previous day.
In experiment "A" the pistol held
against the meat, and the result was the
same as the other exhibits. In experi-
ment "B" the pistol was held at a distance
of six inches, and the result was the
same as the other exhibits. In experi-
ment "C" the pistol was held at a distance
of nine inches, and the result was the
same as the other exhibits. In experi-
ment "D" the pistol was held at a distance
of twelve inches, and the result was the
same as the other exhibits. In experi-
ment "E" the pistol was held at a distance
of fifteen inches, and the result was the
same as the other exhibits. In experi-
ment "F" the pistol was held at a distance
of eighteen inches, and the result was the
same as the other exhibits. In experi-
ment "G" the pistol was held at a distance
of twenty inches, and the result was the
same as the other exhibits. In experi-
ment "H" the pistol was held at a distance
of twenty-five inches, and the result was the
same as the other exhibits. In experi-
ment "I" the pistol was held at a distance
of thirty inches, and the result was the
same as the other exhibits. In experi-
ment "J" the pistol was held at a distance
of thirty-five inches, and the result was the
same as the other exhibits. In experi-
ment "K" the pistol was held at a distance
of forty inches, and the result was the
same as the other exhibits. In experi-
ment "L" the pistol was held at a distance
of forty-five inches, and the result was the
same as the other exhibits. In experi-
ment "M" the pistol was held at a distance
of fifty inches, and the result was the
same as the other exhibits. In experi-
ment "N" the pistol was held at a distance
of fifty-five inches, and the result was the
same as the other exhibits. In experi-
ment "O" the pistol was held at a distance
of sixty inches, and the result was the
same as the other exhibits. In experi-
ment "P" the pistol was held at a distance
of sixty-five inches, and the result was the
same as the other exhibits. In experi-
ment "Q" the pistol was held at a distance
of seventy inches, and the result was the
same as the other exhibits. In experi-
ment "R" the pistol was held at a distance
of seventy-five inches, and the result was the
same as the other exhibits. In experi-
ment "S" the pistol was held at a distance
of eighty inches, and the result was the
same as the other exhibits. In experi-
ment "T" the pistol was held at a distance
of eighty-five inches, and the result was the
same as the other exhibits. In experi-
ment "U" the pistol was held at a distance
of ninety inches, and the result was the
same as the other exhibits. In experi-
ment "V" the pistol was held at a distance
of ninety-five inches, and the result was the
same as the other exhibits. In experi-
ment "W" the pistol was held at a distance
of one hundred inches, and the result was the
same as the other exhibits. In experi-
ment "X" the pistol was held at a distance
of one hundred and five inches, and the result was the
same as the other exhibits. In experi-
ment "Y" the pistol was held at a distance
of one hundred and ten inches, and the result was the
same as the other exhibits. In experi-
ment "Z" the pistol was held at a distance
of one hundred and five inches, and the result was the
same as the other exhibits.

On cross-examination he stated that
the results of the experiments were the
same as the other exhibits.

On redirect examination he stated that
the results of the experiments were the
same as the other exhibits.

On cross-examination he stated that
the results of the experiments were the
same as the other exhibits.

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THE THIRTEENTH DAY.

the thickness of the human body at
the point where the wound in Mc-
Whirter was located was from two to
three inches to the cavity. The blood
flowing from such a wound could mix
with the residue of the powder and the
bullet could carry it along with it. Im-
mediately upon coming in contact with the air,
the blood would coagulate, the clean-
ing of a wound like this would tend to
carry off the evidences of burial powder.

On redirect he stated that in

